

§ 14.70

the executive secretary or the designated agency employee listed in the FEDERAL REGISTER notices published under § 14.20.

(c) Requests for public advisory committee records, including minutes, are to be made, to FDA's Freedom of Information Staff (HFI-35) under § 20.40 and the related provisions of part 20.

[44 FR 22351, Apr. 13, 1979, as amended at 46 FR 8456, Jan. 27, 1981]

§ 14.70 Administrative record of a public hearing before an advisory committee.

(a) Advice or recommendations of an advisory committee may be given only on matters covered in the administrative record of the committee's proceedings. Except as specified in other FDA regulations, the administrative record consists of all the following items relating to the matter:

(1) Any transcript or recording of an open portion of a meeting.

(2) The minutes of all portions of all meetings, after any deletions under § 14.60(b)(4).

(3) All written submissions to and information considered by the committee.

(4) All reports made by the committee.

(5) Any reports prepared by a consultant under § 14.31(e).

(b) The record of the proceeding is closed at the time the advisory committee renders its advice or recommendations or at any earlier time specified by the committee or in other sections in this chapter.

§ 14.75 Examination of administrative record and other advisory committee records.

(a) The administrative record and other committee records are available for public disclosure under part 20, except as provided in paragraph (b) of this section, at the following times:

(1) The written information for consideration by the committee at any meeting; at the same time it is made available to the committee.

(2) The transcript or recording of any open portion of a meeting; as soon as it is available.

(3) The minutes of any open portion of a meeting; after they have been ap-

proved by the committee and certified by the chairman.

(4) The brief summary of any closed portion of a meeting prepared under § 14.60(c); as soon as it is available.

(5) All written information or views submitted to the committee at an open portion of a meeting; as soon as they are submitted.

(6) The minutes or portions thereof of a closed portion of a meeting—

(i) For a matter not directed to be maintained as confidential under § 14.22(i)(2): After they have been approved by the committee and certified by the chairman; and

(ii) For a matter directed to be maintained as confidential under § 14.22(i)(2): After the advice or report of the committee relevant to those minutes or portions thereof is acted upon by the Commissioner, or upon a determination by the Commissioner that such minutes or portions thereof may be made available for public disclosure without undue interference with agency or advisory committee operations.

(7) Formal advice or a report of the committee: After it has been acted upon, i.e., approved, disapproved, or rejected as inadequate, by the Commissioner, or upon a determination by the Commissioner that such formal advice or report may be made available for public disclosure without undue interference with agency or committee operations. Such formal advice or report may be retained as confidential while it is under active advisement.

(8) Any other committee records relating to the matter, except transcripts and recordings of closed portions of meetings: After the advice or report of the committee relevant to those records is acted upon by the Commissioner, or upon a determination by the Commissioner that the records may be made available for public disclosure without undue interference with agency or committee operations.

(b) The following information contained in the administrative record is not available for public examination or copying except as provided in § 12.32(g):

(1) Material provided to the committee by FDA that is exempt from public disclosure under part 20 and the regulations referenced there.

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